



March 12, 2019

Honorable Paul Tonko, Chair
Honorable John Shimkus, Ranking Member
Environment and Climate Change Subcommittee
Energy and Commerce Committee

Honorable Frank Pallone, Chair
Honorable Greg Walden, Ranking Member
Energy and Commerce Committee
US House of Representatives

Re: EPA Fails to Protect Workers from Methylene Chloride Paint Removers under TSCA

As the Committee considers the effectiveness of worker protections under the Toxic Substances Control Act (TSCA), the undersigned groups wish to highlight EPA's egregious failure to safeguard workers from dangerous paint removers containing methylene chloride (MC).

We understand that EPA will soon finalize a rule under TSCA section 6(a) that will limit only consumer uses of MC paint removers and allow commercial uses of these products to continue without restriction. This will leave tens of thousands of workers at risk of death and serious health effects and violate EPA's obligations under TSCA. Furthermore, the failure to limit commercial use will continue to endanger consumers who will still be able to access commercially available products.

In January 2017, EPA proposed to ban the manufacture and sale of MC paint removal products for both commercial and consumer uses. The proposal concluded that both types of use present an unreasonable risk of injury to human health. Inhaling MC fumes causes carbon monoxide to build up rapidly in the blood, leading to heart failure, loss of consciousness, coma, and death. EPA's proposed rule attributed forty-nine deaths to MC since 1976, including several involving workers engaged in commercial uses.

Following publication of the proposed rule, at least four more deaths from MC exposure have occurred. The decedents include Kevin Hartley, a 21-year-old employee of a contractor, who died of MC exposure in April 2017 while refinishing a bathtub, and Drew Wynne, a 31-year-old who died in October 2017 while stripping the floor of a refrigerator in his small business.

Based on EPA's comprehensive 2014 risk assessment, the proposed rule concluded that "workplaces are estimated to present exposure levels between 100 times to greater than and 1,000 times more than those that are of concern." As EPA emphasized, "[n]ot only workers, but also occupational bystanders, or workers engaged in tasks other than paint and coating removal, would be at acute risk for central nervous system effects." We are also concerned that even low-level or short-term exposures to women during pregnancy may cause harm. EPA's IRIS assessment identifies a potential elevated risk of miscarriages and reproductive risks to occupationally exposed women and men.

EPA's proposal concluded that labels, warnings and use instructions would not provide effective protection to workers and that use of respirators would not eliminate significant risks. It also decided

against limiting the proposed rule to consumer uses because “paint and coating removal products containing methylene chloride frequently are available in the same distribution channels to consumers and professional users” and “cannot be straightforwardly restricted to a single type of project or user.”

Appearing at a Senate subcommittee hearing in March 2018, former Administrator Scott Pruitt testified that “I recently met with individuals impacted by methylene chloride and made the decision to proceed with that [ban] by forwarding it to OMB.” Mr. Pruitt said that “We have forwarded to OMB recently a proposed rule prohibiting consumer and commercial paint stripping uses for methylene chloride, following through on EPA’s January 2017 proposal that methylene chloride be banned from products.” EPA’s current path is a betrayal of that commitment.

EPA should revise the draft final rule so that both commercial and consumer uses of MC paint removers are banned under TSCA. Failure to do so would be a patent abdication of EPA’s public health protection responsibilities under the law.

Respectfully submitted,

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